

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

February 25, 2003

**FROM: MICHAEL E. HAYS, DIRECTOR
LAND USE SERVICES DEPARTMENT/CURRENT PLANNING DIVISION**

**SUBJECT: GENERAL PLAN AMENDMENT, PRELIMINARY AND FINAL DEVELOPMENT
PLAN AND TENTATIVE TRACT 16211; APPLICANT: LB/L-DS VENTURES LAKE
ARROWHEAD, LLC (PATRIOT HOMES); FILE/INDEX: GPA/TT/FDP/M238-4/01;
APN: 0331-323-01*; COMMUNITY: LAKE ARROWHEAD**

RECOMMENDATION:

CONDUCT PUBLIC HEARING to consider the Patriot Homes Planned Development Project including action on the following components:

- a) Mitigated Negative Declaration;
- b) General Plan Land Use District Amendment from Multiple Residential, 3,000 sq. ft. of land per unit (LA/3mRM) and Single Residential 14,000 sq. ft minimum lot size (LA/RS-14m) to Planned Development (LA/PD) on 11.8 acres; Applicant: LB/L-DS Ventures Lake Arrowhead, LLC (Patriot Homes); File/Index: GPA/TT/FDP/M238-4/01; APN: 0331-323-01*; Community: Lake Arrowhead;
- c) Tentative Tract 16211 to create 41 numbered residential lots and one lettered lot on 11.8 acres;
- d) Preliminary and Final Development Plan for Tentative Tract 16211 for 41 numbered residential lots and one lettered lot on 11.8 acres;
- e) Findings for the General Plan Amendment, the Tentative Tract 16211, the Preliminary and Final Development Plan and Mitigated Negative Declaration.

(See Planning Commission Action and Staff Recommendation)

PLANNING COMMISSION ACTION: A Motion to Deny the project failed to carry and resulted in a split vote, of two in favor and two against the motion. The motion to deny the project was based on grounds that an Environmental Impact Report should be prepared; the proposed land use change was inconsistent with the General Plan; and, the proposed land use change was not in the public interest and other existing and permitted uses would be comprised.

STAFF RECOMMENDED ACTION:

1. DECLARE AN INTENT TO:

- a) **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;
- b) **ADOPT** the General Plan Land Use District Amendment from Multiple Residential, 3,000 sq. ft. of land per unit (LA/3mRM) and Single Residential, 14,000 sq. ft minimum lot size (LA/RS-14m) to Planned Development (LA/PD) on 11.8 acres; Applicant: LB/L-DS Ventures Lake Arrowhead, LLC (Patriot Homes); File/Index: GPA/TT/FDP/M238-4/01; APN: 0331-323-01*; Community: Lake Arrowhead;

Record of Action of the Board of Supervisors

- c) **APPROVE** Tentative Tract 16211 to create 41 numbered residential lots and one lettered lot on 11.8 acres, subject to the conditions of approval;
 - d) **APPROVE** the Preliminary and Final Development Plan for Tentative Tract 16211 for 41 numbered residential lots and one lettered lot on 11.8 acres, subject to the conditions of approval;
 - e) **ADOPT** the required Findings for the General Plan Amendment, the Tentative Tract 16211 and the Preliminary and Final Development Plan, and find that the Mitigated Negative Declaration was prepared in compliance with the California Environmental Quality Act (CEQA) and represents the independent judgement of the County;
 - f) **FILE** a Notice of Determination; and
- 2. CONTINUE** for Final Adoption with the First Cycle 2003 General Plan Amendments.

BACKGROUND INFORMATION: The project site is located within areas designated for single and multi-family residential use by the County General Plan. This project proposes a General Plan Amendment from LA/RS-14m and LA/3mRM to PD for the entire 11.81 acres. The maximum housing density that would be permitted in the RS area is 3 dwelling units per acre and in the RM area, 14 dwelling units per acre. The condominium development previously approved for this portion of the project site consisted of 95 dwelling units on 11.81 acres at a density of 8 dwelling units per acre. The proposed 41 units would develop at a density of 3.47 dwelling units per acre, a significant reduction.

Development is proposed on 3.86 acres and the remaining 7.95 acres will include roads, common areas, and open space. The forty-one (41), residential lots will be held in "Fee Title" (separately owned) and the one lettered lot will have common ownership and consist of all roads, guest parking spaces, the area between homes outside of fenced patio spaces, and the undeveloped area along the south boundary. The average size of the residential lots will be 2,346 sq. ft. The applicant has indicated an intent to construct the project in a single-phase of three-story homes built on stepped, custom foundations in four styles ranging between 2,528 sq. ft. and 3,106 sq. ft.

The project site was originally part of the Lake Arrowhead Chalet development approved by the County in 1973 for 181 condominium units on five multiple residential lots under Tract 8863. Construction was completed on 56 of those units on lots 1 & 2 in the late 1970's. Some of the improvements (consisting of roadways, retaining walls, sewer mains, water mains, storm drains and concrete-lined, rectangular channel) were also installed on lots 3, 4 and 5, on which the current project is being proposed. The roadways were graded and paved on lot 3 and the southerly portion of lot 5 and were rough graded on lots 4 and 5. Most of the paved surfaces will require removal and replacement, as well as grading and widening to meet current standards due to the erosion and overgrowth that has occurred over the years.

An Environmental Initial Study was prepared on November 1, 2002, for the project that identified and discussed the potential impacts of all the areas of community concern and provided mitigation measures that will reduce potential impacts to less than significant. The following items were of particular note:

- Focused surveys were conducted for the California Spotted Owl, White-Eared Pocket Mouse, and the Southern Rubber Boa. The results of the three surveys determined that none of the identified species and no state or federally proposed, threatened, or endangered species were present on the site. Survey results were included in the Initial Study.

- The project site is located within the viewshed of State Route 173 and Kuffel Canyon Road, both designated Scenic Routes in the County General Plan. Native vegetation within the setback area of Kuffel Canyon Road will be preserved so that the forest viewshed will be maintained. The project site will not be visible from State Route 173 due to the grade separation and retained vegetation. A Landscape Re-vegetation Plan that includes replanting indigenous dogwood trees will be implemented as a mitigation measure for potential visual impacts and erosion control.
- The Lake Arrowhead Community Services District (LACSD) provided a "Water Service Certification" to the applicant stating that it is financially and physically feasible to install water service facilities that will provide adequate source, storage and distribution line capacities for each proposed service connection that will satisfy the domestic water service and fire protection requirements for the proposed new units provided the applicants submit a fair share contribution of \$90,125.00 to the District for future construction of additional water storage tank capacity.
- A traffic analysis of local intersections prepared for this project by LSA Associates, Inc., dated June 4, 2001, indicates that the projected traffic generation of 35 a.m. peak hour and 46 p.m. peak hour vehicle trips per day are within the thresholds established as acceptable by the County of San Bernardino. Projected increases in traffic due to the proposed project will have a negligible effect on traffic conditions. The analysis predicts that all affected local intersections will be within acceptable traffic levels after the proposed project is constructed. The County Transportation Department/Traffic Division has reviewed and concurred with the conclusions of the analysis. No impact can be identified and no mitigation is required.
- A partially channeled creek (East Kuffel Canyon drainage course) runs through the project site from the southeastern portion to the north central portion. Drainage from the project site and from above the site flows into this creek. The proposed project includes improvements to the existing channelized portion of the stream in order to effectively convey 100-year storm flows.

The Initial Study was forwarded to the State Clearinghouse (#2002081053) for circulation and no comments were received regarding the environmental document. A Mitigation Monitoring and Reporting Program has been prepared for this project. A Mitigated Negative Declaration was, therefore, recommended.

The Planning Commission conducted public hearings on this project on November 7, 2002, and January 9, 2003. Testimony and written comments were presented at the Planning Commission hearings by several community members and others who stated opposition to the project. They generally expressed the following concerns:

- They are in a stage three drought,
- They cannot landscape or water their property,
- Their trees are dying for lack of water,
- Their water bills have increased,
- The level of the lake is declining; some of their docks that have access to the lake are in mud,
- They would like a moratorium on building permits and water connections,
- LACSD's views on the feasibility of the water is not in the interest of the residents,
- There is potential for erosion and fire hazards, and
- The proposed project will add to the drought situation.

Prior to the second Planning Commission hearing, the LACSD (on November 26, 2002) conducted a public meeting at which the District Board rejected a proposal to impose a building moratorium on service connections. They indicated that they will continue to examine mid and long range options for supplemental water such as drilling new drinking water wells, water transfer from other sources such as the Crestline-Lake Arrowhead Water Agency system, reclamation, and adoption of stricter conservation rules. The District also provided a letter re-affirming their position of service availability for the proposed project.

The State Department of Health Services/Drinking Water Division, pursuant to Section 116555, California Health and Safety Code (CH&SC), has the responsibility of ensuring that each public water system provides a reliable and adequate supply of pure, wholesome, healthful, and potable water. They responded to Commission questions with a letter dated November 21, 2002, stating that, based on data provided by the LACSD in its annual report to the Department, the district can provide reliable and adequate water supply to all of the customers in its service area including the proposed development. They further indicated that the LACSD has no current service connection limitation imposed by the Department and it does not consider a service connection limit necessary at this time.

Dennis Whitney, President of the LACSD attended the Commission hearing and stated that the LACSD Board of Directors voted unanimously not to suspend new construction or new connections, but that the LACSD has imposed a prohibition on new landscaping in Lake Arrowhead. He stated the LACSD has adequate water supply to provide domestic and fire flow service to the project and that the LACSD will be considering more drastic measures to reduce water use down to 2,000 acre feet per year. He also stated that the LACSD currently has the ability to add service connections for 70 to 80 homes per year and that the Patriot Homes project does not appear to greatly affect the amount of water that is going to be used. Issues related to decline in the level of Lake Arrowhead as a result of the LACSD providing water to the community, are issues that must be resolved by the LACSD Board, who is an independent governing body elected by the community.

County Counsel advised that the Planning Commission does not have the authority to impose a moratorium as requested by the project opponents.

Additional public testimony addressed a potential increase in traffic on Kuffel Canyon Road with the existing congestion, blind curves, excess speed, and the low visibility at its intersection with State Highway 173, continuing pedestrian and emergency vehicle access for the adjoining Arrowhead Chalet condominium development, devaluation of existing residences, extensive grading, removal of trees and preservation of the natural forest, and a potential increase in noise from a new development. Many felt an EIR should be required.

At the conclusion of Staff's presentation to the Commission, Staff recommended that the two following requirements be added to the conditions of approval:

49. The Applicant/Developer shall amend the recorded condominium plan and the CC&Rs on file with the Department of Real Estate (DRE) by relinquishing the condominium development rights with regard to access, common open space areas, and recreational amenities
97. The developer shall remediate and replant the open area between proposed lots 29, 30, 38, and 39 where the existing pavement will be removed.

As previously discussed, an Environmental Initial Study was prepared for the project that identified and discussed the potential impacts of all the areas of community concerns and provided mitigation measures that will reduce potential impacts to less than significant. However, at the January 9, 2003, Planning Commission hearing, the LACSD related that they had adopted Stage Three drought measures that conflict with conditions relating to landscape for erosion control and viewshed mitigation. Therefore, Staff also recommends that the following be added to the Tentative Tract as Condition #32a, and to the Preliminary and Final Development Plan as Condition #30a:

Prior to the issuance of grading permits or any land disturbing activity, the applicant/developer shall be required to provide proof to the satisfaction of the Planning Division that the Stage Three drought measures have been lifted and any required landscaping and erosion control can be installed and maintained.

Alternatively, amend Condition #101 of the Tentative Tract to add the underlined text:

101. All landscaping, irrigation, and other improvements shown on the approved landscaping and irrigation plans and all required walls shall be completed or suitable bonds posted for their completion. The developer shall be responsible for maintenance of landscaping and irrigation until such time as another maintenance authority is in place. The landscaping shall be completed as soon as practical after the Stage Three drought measures have been lifted.

And amend Condition #31 of the Preliminary and Final Development Plan as follows:

31. Erosion control measures shall be installed on all slopes exceeding three (3) feet of fill and five (5) feet of cut upon completion of grading. Alternative Erosion and Sediment Controls shall be used and maintained ~~during construction activities~~ at all times until permanent landscaping can be installed.

REVIEW BY OTHERS: This item has been reviewed by Deputy County Counsel Robin Cochran on February 10, 2003, and by the County Administrative Office, Patricia M. Cole, Administrative Analyst III on February 13, 2003. The Planning Commission hearing was conducted on January 9, 2003.

FINANCIAL IMPACT: There are no financial impacts associated with this item.

SUPERVISORIAL DISTRICT(S): 3rd

PRESENTER: Julie M. Rynerson, Division Chief - Current Planning Division, 387-4146